

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRUCE E. VAWSER,)
Plaintiff,) 4:06cv3217
vs.) ORDER on INITIAL REVIEW
TRESSA ALIOTH, et al.,)
Defendants.)

This matter is before the court for initial review of the complaint filed by the plaintiff, Bruce E. Vawser, a prisoner in the custody of the Nebraska Department of Correctional Services ("DCS"). The plaintiff, who is serving a sentence of 3-5 years for theft by receiving stolen property, false information, and assault by strangulation, wants to sue city and county prosecutors and a Humane Society investigator for defamation of character. The defendants charged the plaintiff with animal cruelty and engaging in dog fighting. Eventually the charges were dismissed when the plea agreements failed, although it appears that the plaintiff lost two pit bulls and eight puppies in the course of events.

Proceeding pro se and in forma pauperis ("IFP"), the plaintiff filed his complaint on a form for a civil rights complaint pursuant to 42 U.S.C. § 1983. However, he alleges a claim of defamation and seeks monetary relief in the total amount of \$300,000.

This case is assigned to the docket of Chief Judge Joseph F. Bataillon. However, a Magistrate Judge may conduct initial review. On initial review, I anticipate that the defendants will be asserting affirmative defenses. Therefore, as initial review of the complaint is now concluded, it is time for the plaintiff to obtain service of process on the defendants, as set forth below. Because the plaintiff is proceeding IFP, the U.S. Marshal will serve the defendants, after the plaintiff completes the appropriate forms.

IT IS THEREFORE ORDERED:

1. To obtain service of process on the defendants, the plaintiff must complete and return forms which the Clerk of Court will provide.
2. The Clerk of Court is directed to provide the plaintiff with a summons and USM-285 form for each defendant and a copy of this order.
3. The plaintiff shall, as soon as possible, complete the forms and send them back to the Clerk of Court within sixty (60) days from the date of this Order. In the absence of the completed forms, service of process cannot occur. Failure to return the forms within

sixty (60) days from the date of this Order could result in dismissal of this case, without further notice.

4. Upon receipt of the completed summons and 285 forms, the Clerk will sign each summons, to be forwarded, together with a copy of the complaint, to the U.S. Marshal for service of process. The Marshal shall serve each summons and complaint without payment of costs or fees. Service may be by certified mail pursuant to Fed. R. Civ. P. 4 and Nebraska law in the discretion of the Marshal.

5. If service has been obtained on no defendant by the deadline set forth above, the Clerk of Court shall bring this case to the attention of the court.

6. After an appearance has been filed by a defendant, the plaintiff shall serve on the defendant or, if an appearance has been entered by counsel, upon such counsel, a copy of every future pleading, letter or other document submitted to the court. Parties usually serve copies of documents on other parties by first class mail.

7. The plaintiff shall include with each document submitted to the court a **"Certificate of Service"** stating the date a true and correct copy of such document was mailed to the defendant(s) or to the attorney of any represented defendant. **If the plaintiff does not include a Certificate of Service indicating that a copy of a communication to the court has been sent to all other parties to the case, the court will issue a Notice of Deficiency and might strike the plaintiff's communication from the record.**

8. A defendant has twenty (20) days after receipt of the summons to answer or otherwise respond to a complaint.

9. The parties are bound by the Federal Rules of Civil Procedure and by the Local Rules of this court.

10. The plaintiff shall keep the court informed of his current address at all times while this case is pending. Failure to do so may result in dismissal.

11. **IMPORTANT NOTE: Any pleading, letter or motion filed by the plaintiff with the court must bear the plaintiff's original signature.**

DATED this 5th day of February, 2007.

BY THE COURT:

s/ F. A. GOSSETT
United States Magistrate Judge